THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.24782 OF 2006

Date: 08-12-2006

Between:
Eturu Gram Panchayat,
Rep. By its Sarpanch Smt. Anumolu Jhansi Lakshmi,
W/o Sri Hari Laxmi Narayana, aged 50 years,
Hindu, Eturu Chandaralapadu Mandal,
Krishna District.

... Petitioner.

And

1. State of Andhra Pradesh,
   rep. by its District Collector,
   Department of Panchayat Raj & Rural Development,
   Krishna District, Machilipatnam and 3 others.

... Respondents.

* * *

ORDER:

Learned Assistant Government Pleader for Panchayat Raj had taken notice on behalf of respondents 1 to 3 and Sri M.Prabhakar Rao, had taken notice on behalf of 4th respondent on 29.11.2006 and requested time to get instructions.

2. The matter is coming up for admission today. Eturu Gram Panchayat, the writ petitioner, filed the present writ petition praying for a writ of Mandamus declaring action of the respondents herein in conducting public auction of sand on 01.12.2006 in the lands

situated in R.S.Nos.291, 292, 293 and 294 of Eturu Gram Panchayat in the name and on behalf of the Vibharithalapadu Gram Panchayat, as arbitrary, illegal, contrary to revenue records and depriving the entitlement of petitioner's share in seignorage fee as contemplated under G.O.Ms.No.255, PR & RD (Pts III) Department dated 02.8.2001, and consequently direct the respondents to conduct the public auction in the name and on behalf of the Eturu Gram Panchayat and pass such other suitable orders.

3. It is stated that the petitioner Gram Panchayat is a minor panchayat and R.S.Nos.291, 292, 293 and 294 are within the revenue boundaries of Eturu Gram Panchayat and they are the lands in Krishna River meant for sand quarries and belonging to Eturu Gram Panchayat. It is further stated that the total extent of said lands are Ac.330-04 in R.S.No.291, Ac.437.69 in R.S.No.292, Ac.351-55 in R.S.No.293 and an extent of land of Ac.388.82 cents in R.S.No.294. The village revenue record i.e., 10(1) adangal discloses the facts that the said lands are situated in Eturu village limits. Some extent of land, out of total land, was leased out to Harijan Field Labour Cooperative Societies for cultivation. Remaining land approximately Ac.1100 are filled with sand and the second respondent is proposed to conduct public auction on 01.12.2006 at 11-00 a.m. in the office of the first respondent by the third respondent. It is also stated that the second respondent herein is conducting public auction of sand quarry in the name and on behalf of the 4th respondent ignoring the fact that the lands in which sand is proposed to put public auction are situated within

the revenue boundaries of petitioner panchayat. Having come to know of the said action, even prior to issuance of such advertisement, the petitioner vide resolution bearing No.13 dated 03.11.2006 resolved unanimously that request would be placed before the second respondent to see that the seignorage fee should be remitted to the petitioner panchayat since the lands are situated in revenue boundaries of the petitioner panchayat and a copy of the said resolution was forwarded to the second respondent and similar representation dated 18.11.2006 also had been made to respondents 1 to 3 with a request to look into the matter and do justice to the petitioner panchayat. It is also further stated that the petitioner is not aggrieved of the proposed public auction by the respondents 2 and 3, but the grievance is to conducting of public auction in the name and on behalf of the 4th respondent. Once the auction is conducted in the name of the 4th respondent, the petitioner Gram Panchayat would loose its seignorage as contemplated under G.O.Ms.No.255, PR & RD (Pts III) Department, dated 02.8.2001. In view of the said Government Order, the petitioner panchayat is entitled to 25 percent share in seignorage collected from the highest bidder. Further, it is stated that the first respondent being the District head and the second respondent being Chairman and District Level Panchayat Officer ought to have verified before conducting public auction in the name of the 4th respondent. Several factual details and several representations in this regard also had been referred to.

4. Section 273 of the Andhra Pradesh Panchayat Raj Act, 1994 dealing with adjudication of disputes between local authorities

reads as hereunder.

"273. Adjudication of disputes between local authorities:-

(1) When a dispute exists between a local authority and one or more other local authorities in regard to any matter arising under the provisions of this or any other Act and the Government are of opinion that the local authorities concerned are unable to settle it amicably among themselves, the Government may take cognisance of the dispute; and

(a) decide it themselves, or
(b) refer it for enquiry and report to an arbitrator or a board of arbitrators or to a joint committee constituted for the purpose by an order of the Government.

(2) The reports referred to in clause (b) of sub-section (1) shall be submitted to the Government who shall decide the dispute in such manner as they may deem fit.

(3) Any decision given under clause (a) of sub-section (1) or under sub-section (2) may be modified from time to time, by the Government in such manner as they deem fit, and any such decision with the modification, if any, made therein under this sub-section, may be cancelled at any time by the Government.

Any such decision or any modification therein or cancellation thereof shall be binding on all the local authorities concerned and shall not be, liable to be questioned in any court of law.

(4) Where one of the local authorities concerned is a cantonment authority or the port authority of a major port, the powers of the Government under this section shall be exercisable only with the concurrence of the Central Government."

It is needless to say that in the light of the provision referred to supra, the petitioner Gram Panchayat has a remedy to approach the Government inasmuch as this is a dispute relating to the boundaries or the question whether the disputed area would fall within the limits of the petitioner Gram Panchayat or the 4th respondent Gram Panchayat.

5. Hence, liberty is given to the petitioner to approach the Government in this regard in accordance with law as referred to supra and it is needless to say that the petitioner's representation, if any, to be made in this regard to be considered in accordance with law and to be disposed of at an early date.

6. The writ petition is disposed of accordingly. No costs.

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P.S.NARAYANA, J.

Date: 08th December 2006.

Note:
Issue CC in two days.

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BSB